

Remarks

Claims 1 – 25 have been rejected under 35 U.S.C. § 103(a). Applicant would like to thank Examiner Wasylchak and the Primary Examiner for their time taken during the June 17, 2004 telephone interview. Applicant has amended claims 1, 8, 15 and 20 in accordance with the Examiners' suggestion. No new matter has been added.

Response

Claims 1, 8, 15, and 20 have been rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,864,828 (Atkins). Claims 2-7, 9-14, 16-19, and 21-25 have been rejected under 35 U.S.C. § 103(a) as being obvious over Atkins in view of U.S. Patent No. 4,876,648 (Lloyd). Applicant respectfully disagrees.

The present invention comprises a method, system and apparatus for creating a single product that combines financial elements into a single financial element. First and second financial institutions are selected to establish an asset account and a liability account, respectively, and separate first and second legal agreement are established with the first and second institutions, the second institution being separate from the first institution. An umbrella agreement is also established that includes the first and second legal agreements, wherein the asset account and the liability account are each managed separately and independently by the first institution and second institution, respectively.

As agreed by Application and the Examiners during the June 16, 2004 telephone interview, Atkins does not disclose a system or method of creating a single financial product that combines financial elements into a single financial element comprising the selection of a first financial institution to establish an asset account and a second financial institution, separate from the first institution, to establish a liability account. Atkins discloses a personal financial management program that includes a HOPE account "through which all transactions are implemented, coordinated, controlled, analyzed and reported to the client." Col. 4, lines 10 – 11. Implicit throughout the Atkins patent is the requirement of a single institution managing all asset and liability accounts through the HOPE account, regardless of the financial institution that managed the account prior to being pledged to the HOPE account, demonstrated by the following cited portions of Atkins:

The required legal documentation for the HOPE mortgage may include, but is not limited to, a HOPE mortgage agreement, individual security agreements for each of the various assets that are used as collateral for the HOPE mortgage, cross-collateralization agreements that allow the value of various asset and asset accounts to be used to support borrowings or indebtedness and individual asset or asset account agreements which include the contractual agreements establishing and setting forth the operations of the asset accounts. . .

Col. 10, Lines 62-71 (emphasis added);

A client's PALAO provides the guidelines by which the financial institution governs, regulates and monitors the client account. . .

Col. 12, Lines 37-39 (emphasis added); and

The unique aspects of the HOPE mortgage servicing process are necessitated by the wide variety of options available to the financial institution. Specifically, a variety of planning, coordinating, and supervisory activities must be initiated in order to make sure that the client remains in compliance with the terms and conditions of the mortgage in a constantly changing financial environment. To further aid both the client and the financial institution with regard to compliance, the system provides an early warning process in the event that it is forecast that there will be some future imbalance.

Col. 14, Lines 35-44.

As stated above, the asset and liability accounts in Applicant's invention are independently managed by the first institution and second institution, separate from the first, respectively. By comparison, Atkins does not suggest or teach such a system. Similarly, even if combined with other prior art, such as the bond example set forth on page 4 of the Detail Action, Atkins could not provide a basis for an obviousness rejection of the present invention. The steps missing in Atkins that distinguish it from the present invention - that is, Atkins' method requires a single financial instruction - cannot be added by additional art to combine to teach Applicant's system and method for creating a single financial product that combines financial elements into a single financial element, the asset and liability accounts are independently managed by the first institution and second institution, separate from the first, respectively. Accordingly, Atkins, alone or in combination with any other cited prior art, does not disclose the system as claimed in pending claims 1, 8, 15, and 20. Therefore, it is respectfully submitted that claims 1, 8, 15, and 20 are novel and non-obvious over Atkins.

As the Examiner sets forth on Page 4 of the Detailed Action, Lloyd “teaches the choice among each type of financial institutions.” Lloyd, though, does not suggest or teach a system or method of creating a single financial product that combines financial elements into a single financial element comprising the selection of a first financial institution to establish an asset account and a second financial institution, separate from the first institution, to establish a liability account. Accordingly, for the reasons stated above and since claims 2-7, 9-14, 16-19, and 21-25 each depend from a patentable independent claim, neither Atkins, nor Lloyd, alone or in combination with each other, suggest or teach the system as presently claimed. Therefore, claims 2-7, 9-14, 16-19, and 21-25 are patentable over the cited prior art.

It is respectfully submitted that claims 1- 25 are in condition for allowance. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103 rejection, and that allowance be granted at the earliest date possible. Should the Examiner have any questions or comments regarding Applicant’s amendments or response, the Examiner is asked to contact Applicant’s undersigned representative at (215) 575-7194.

Respectfully submitted,



Darryl W. Shorter
Registration No. 47,942

Date: **July 15, 2004**

DILWORTH PAXSON LLP
3200 Mellon Bank Center
1735 Market Street
Philadelphia, PA 19103-7595
Tel. (215) 575-7000
Fax (215) 575-7200